



Mioko C. Tajika

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VIA ECF

Honorable Pamela K. Chen
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

**Re: *Jackson Lee v. W Architecture and Landscape Architecture, LLC,*
Case No. 18-cv-05820 (PKC) (CLP)**

Dear Judge Chen:

On behalf of defendant W Architecture and Landscape Architecture, LLC, we write to advise the Court on the status of the parties' settlement agreement.

This action was commenced by plaintiff asserting claims for copyright infringement and a violation under the Digital Millennium Copyright Act over a rendering ("Rendering") that was placed on the wall of a building ("Building") located in downtown Manhattan. The Rendering originally appeared on W Architecture's presentation materials for the Hudson Square streetscape improvement project ("Project"). W Architecture was hired as the subcontractor to perform certain landscape architecture work on the Project, and was retained by AKRF, Inc., an environmental planning and engineering services firm, who was in turn engaged by or through the New York City Economic Development Corporation ("EDC"), the Hudson Square Connection, and the New York City Department of Transportation ("NYC"). The Building, AKRF, EDC, Hudson Square, and NYC are collectively referred to as the "Other Parties."

Upon information and belief, the Building obtained the Rendering from the presentation materials and decided to display it on its wall. Apart from e-mailing the presentation materials to AKRF and its clients, W Architecture did not disseminate physical or electronic copies of the presentation materials to the Building, or to anyone else for that matter. Accordingly, W Architecture had no knowledge or information that the Building had obtained the Rendering or that it was going to use it on its wall, and at no time did W Architecture give any permission to anyone to use it on any building or elsewhere. Subsequently, W Architecture was sued by plaintiff who alleged that he is the photographer of the individuals depicted in the Rendering.

After months of litigation, and prior to the Court's ruling on plaintiff's pending motion to amend the complaint (to add the Building as an additional defendant), we negotiated and reached

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a global settlement with plaintiff that includes all of the Other Parties mentioned above. On October 16, 2019, I prepared a draft settlement agreement and shared it with AKRF, who in turn shared it with the Other Parties. Since then, I have been waiting for and have sent numerous requests and follow-ups for an update on the status of review by the Other Parties, most of which has gone unanswered (except for responses from AKRF that it was also still waiting to hear back). I also specifically indicated the Court's December 30, 2019 deadline for the submission of a stipulation of dismissal. Recently, a representative at the EDC finally responded by stating that he was "doing everything we can to push our city partners to approve the agreement. We understand the time sensitivity. Unfortunately, however, I am not in control of their review. We will continue to push to get their approval." He has not responded to my question of when we can expect to receive any comments to the draft settlement agreement.

Under the circumstances, we respectfully request: (1) another 30 days in which to finalize the settlement agreement and to extend the deadline for submitting a stipulation of dismissal to **January 31, 2020**, and (2) ask the Court to issue an Order directing the Other Parties to provide their comments to the settlement agreement by December 31, 2019.

We apologize to the Court and counsel for the delay caused by the Other Parties.

Respectfully,

s/ Mioko C. Tajika

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